

VZCZCXRO9804

OO RUEHDBU RUEHFL RUEHKW RUEHLA RUEHNP RUEHROV RUEHSL RUEHSR
DE RUEHVJ #0810/01 1881351
ZNY CCCCC ZZH
O 071351Z JUL 09
FM AMEMBASSY SARAJEVO
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0444
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUEAIIA/CIA WASHINGTON DC
RHEFDIA/DIA WASHINGTON DC
RUEKJCS/JCS WASHINGTON DC
RUEKJCS/SECDEF WASHINGTON DC

C O N F I D E N T I A L SECTION 01 OF 04 SARAJEVO 000810

SIPDIS

DEPT FOR EUR (JONES), EUR/SCE (HYLAND, FOOKS)

E.O. 12958: DECL: 07/02/2019

TAGS: [KDEM](#) [PGOV](#) [PINR](#) [PREL](#) [BK](#)

SUBJECT: BOSNIA - FEW SIGNS OF PROGRESS AT THE JUNE PIC

REF: SARAJEVO 687

Classified By: Ambassador Charles English for reasons 1.4 (b) and (d)

11. (C) SUMMARY: The June 29-30 Peace Implementation Council (PIC) session was marked by rancorous debate among Bosnian politicians and by general acknowledgment that Bosnia had made little progress toward satisfying the objectives and conditions necessary to close the Office of the High Representative (OHR). President of the Party of Democratic Action (SDA) Sulejman Tihic said that OHR closure "in this complex political and constitutional situation" could exacerbate divisions and blockages and even lead to conflict. Republika Srpska Prime Minister (RS PM) Milorad Dodik made a combative presentation in which he said he would not accept the use of Bonn Powers in the future and accused Principal Deputy High Representative (PDHR) Gregorian of conspiring with both the State Investigation and Protection Agency (SIPA) and Tihic to bring him down. Croat leaders called for constitutional reform, with HDZ-1990 President Ljubic saying that "radical constitutional reform with territorial reorganization" was necessary. Russia reaffirmed its desire for rapid closure and criticized Tihic's boycott of Prud and Inzko's use of the Bonn Powers to annul the RSNA conclusions. The Europeans said they want to see implementation of five plus two "in full" before closure, and that constitutional reform remains a priority, but they made it clear -- as did Russia -- that they do not want constitutional reform linked to the closing of OHR. END SUMMARY.

HighRep and PIC Members Call for Action

12. (C) HighRep Inzko began the PIC session with the party leaders by declaring that Bosnia had not made sufficient progress since the March PIC for the Steering Board to approve the closure of OHR. He stressed that the PIC's five objectives and two conditions ("five plus two") for OHR closure are important not only for transition to EUSR but for the stability of the country. He encouraged Bosnian leaders to focus particularly on resolving state property and immovable defense property issues, as those are goals that could be attained in the near- to medium-term. The German political director noted that Bosnia cannot advance towards EU membership as long as OHR remains open. DAS Jones said that the USG supports Bosnia in its path to NATO and the EU but that that path would require reforms, including changing the Constitution, although he added that constitutional reform would not become a new condition for OHR closure. The head of the EC mission criticized Bosnia's failure to appoint a new director of the Directorate for European Integration (DEI), and the Dutch political director argued that it is difficult to convince the European Union that Bosnia is serious about membership if, after nine months, it cannot fill this position. The Russian political director decried

the collapse of the Prud process, calling for a "clear commitment of the three Prud leaders" to proceed.

Bosniaks: Pointing the Finger at the Serbs

13. (C) Tihic assessed that OHR closure "in this complex political and constitutional situation" could exacerbate divisions and blockages and even lead to conflict. He stressed that he is prepared for dialogue but could not engage with a man (Dodik) who publicly stated that his goal was the disintegration of the state. He argued that Prud has collapsed not because of him, but because of Dodik, whose party torpedoed proposed funding for refugee returns and is dragging its feet on a state property agreement. On state property, Tihic briefly mentioned the need to register property at the state level and then in the entities, while SBiH Chairman Silajdzic's entire speech consisted of a legal brief on the state's entitlement to all succession property from the former Yugoslavia. Silajdzic noted that he would be willing to agree to grant the entities "full and unrestricted use, but not ownership" of property they need. Granting ownership to the entities, he argued, would "turn the state into a meaningless union of the two entities-and no such union has ever survived." He concluded with a brief plea for international assistance on constitutional reform before the end of the year.

Serbs: Dodik Delivers Combative Speech

14. (C) Dodik delivered a highly combative speech in which he

SARAJEVO 00000810 002 OF 004

argued that he has worked hard on Prud in recent weeks but that Tihic has pushed Prud aside since his re-election as SDA President. He blamed Tihic for the lack of progress on state property, on which Dodik claimed to be ready to negotiate. He then accused PDHR Gregorian of conspiring with both SIPA and Tihic to bring him down and asserted that Tihic, by pulling out of Prud, is making one last effort to keep OHR open. On the RSNA conclusions and the HigRep's removal of an ethnic Serb SIPA official (Rftel), he declared that "this is the last time we will accept the Bonn Powers." He said that the ighRep had removed the SIPA official with no evidence against him and declared that Dodik is preparing a lawsuit against every HighRep since Ashdown for violating the Dayton Accords. He then sarcastically remarked to HighRep Inzko, "I am ready to be removed, but are you ready for the consequences?" He concluded by accusing the Federation of bringing down the IMF standby arrangement, but also agreeing to support constitutional reform as it pertains to ECHR concerns about ethnic discrimination in the election of members of the Presidency and House of Peoples. In his presentation, PM Spiric spoke vaguely of Bosnia's need for a "new kind of optimism" and of the commitment of the Council of Ministers to move forward on Bosnia's Euro-Atlantic path.

Croats: Seeking Constitutional Changes

15. (C) HDZ BiH President Covic claimed that the current state structure is unsustainable. He stressed the need for constitutional reform as soon as possible, as the rhetoric will only worsen in the election campaign season if the current Constitution remains in place. He conveyed optimism on rejuvenating the "Prud" dialogue process and noted that Silajdzic would be welcome to join, but he acknowledged that the six party leaders have too many differences to reach an agreement. He condemned the law on domestic production, noting that his party plans to ask the BiH Court to block its implementation. (Note: the Constitutional Court on July 3 temporarily suspended this law pending a final ruling on its constitutionality at the next Constitutional Court session. End note) He also complained that the Croat candidate for DEI director was blocked solely based on her ethnicity and said

that "we can't let Bosnia become monoethnic" in policymaking.

Finally, he reiterated that the mayor of Mostar needs to be a Croat and called on the HighRep to change the Interim Statute in Mostar to elect the mayor immediately. HDZ-1990 President Ljubic spoke briefly and only called for "radical constitutional reform with territorial reorganization" to include more than two entities that would eliminate ethnic divisions and guarantee civil rights.

Parliamentary Leaders Offer Little Substance

16. (C) The following day, HighRep Inzko opened the session with the leadership of the BiH Parliament by expressing disappointment with the relatively few laws passed by Parliament and its decision to hold limited sessions. He blasted the decision to pass a protectionist law on domestic production in violation of CEFTA and the SAA, which he said endangered Bosnia's commitment to the EU. House of Representatives (HoR) Speaker Beriz Belkic (SBiH) explained that constitutional reform talks in the Parliament had not gotten off the ground due to broad disagreements over process. On a more positive note, he said that the HoR is expected to complete the appointment of the heads of two police boards and pass two laws required for EU visa liberalization (Anti-Discrimination and the Transportation of Hazardous Materials). House of Peoples (HoP) Deputy Speaker Ilija Filipovic (HDZ BiH) acknowledged that the Prud agreement had led to some progress, such as the passage of a 2009 state budget, but focused his comments on the setbacks Parliament has faced. He deplored the lack of harmonization of laws in the entities with the EU acquis, the passage of the law on domestic production, and the absence of a working group on constitutional reform. He also blamed the CoM for being a bottleneck.

17. (C) HoP MP Dusanka Majkic (SNSD) attempted to rebut the charge that the RS is blocking the passage of EU-related legislation and other key reforms. She insisted that the RS was against passing laws that were in conflict with the acquis and other international laws. She stressed that imposed solutions haven't helped improve Bosnia's political climate. The international community, she said, must play the role of a "good friend."

SARAJEVO 00000810 003 OF 004

No New Benchmarks

18. (C) In the discussion about five plus two, Russia stressed that constitutional reform could not be a new benchmark for closing OHR. Germany and the Czech Republic (speaking in its role as the EU Presidency) also said that constitutional reform should not be linked with OHR closure, although the Germans added that constitutional reform is urgently needed. Russia accused the Bosniaks of not wanting to work towards fulfillment of five plus two and criticized HighRep Inzko for using the Bonn Powers to annul the May 14 RSNA conclusions. Turning to Brcko District, Principal Deputy High Representative Raffi Gregorian made it clear that he is prepared to recommend terminating supervision of Brcko once the remaining Final Award obligations -- resolving debts between the entities and Brcko, allowing Brcko residents to change their entity citizenship, and addressing electricity supply issues--are resolved. He suggested that the PIC set a deadline of September 15, and then, if the issues are not resolved, have the HighRep use the Bonn Powers to impose the needed fixes. Germany underscored that the Bonn Powers might be needed to address technical issues but should be avoided for political ones.

Enhanced EUSR

19. (C) Zoltan Martynusz, a Director in the European

Council's External Affairs Office, briefed the PIC on the preparations underway for the post-OHR period. He noted that EUSR's normal "toolbox" was being strengthened, that there would be increased focus on public diplomacy, and that EUSR would provide assistance on constitutional reform. The enhanced EUSR would not have executive authority, but it would be capable of recommending sanctions such as freezing assets, placing individuals on visa ban lists, and selectively terminating funding for projects. Martynusz concluded that there was only one major outstanding issue to be resolved about how the EUSR operation would work in Bosnia, namely how third party member states would be incorporated into EUSR. He said he hoped this would be resolved before the end of summer. Once that issue was resolved, according to Martynusz, the enhanced EUSR could be made fully operational within two months.

Discussions on the PIC Communique

¶10. (C) Negotiations over the PIC communique took far longer than anticipated, with the Russian delegation objecting to a number of points in the initial draft circulated by OHR. The Russians refused, through use of a footnote, to be associated with the communique's criticism of the RS National Assembly's May Conclusions that the HighRep determined were anti-Dayton. They also objected to language supporting extension of the mandate of international judges and prosecutors and to PIC support for constitutional reform, which resulted in those paragraphs of the communique being softened. The Russians and the Turks also had an extended debate over whether to endorse the territorial/functional principle as the basis for allocating property between the state and entities (a formulation that SBiH President Haris Silajdzic objects to). In the end, the communique "encouraged" BiH officials to extend the mandates of international prosecutors and judges and to "positively consider" the positions of local judicial authorities (who support an extension for internationals working on war crimes and organized crime). The reference to the territorial/functional principle for state property was dropped.

Comment

¶11. (C) The debates among Bosnian politicians at this PIC were more rancorous than in the March session, a reflection of the deepening political polarization over the RSNA conclusions. Bosniaks are clearly increasingly anxious over the prospect of OHR closure and are unconvinced that the EU will be up to the task of defending the state, never mind strengthening it, post OHR. Meanwhile, the Serbs appear to be counting on EU and Russian eagerness for transition and Bosniak obstructionism as way to avoid having to make hard compromises on the outstanding property objectives. Under these circumstances, getting the politicians to follow through on their commitment to resume productive dialogue on five plus two clearly will not be easy. At the same time,

SARAJEVO 00000810 004 OF 004

there was increasing awareness among some PIC members that constitutional reform, while not a condition for OHR closure, could not wait until after transition, and all the Bosnian parties agreed some degree of reform is needed. However, it remains to be seen whether in this political environment they will be able to bridge their considerable differences over substance and process.

ENGLISH